

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JANE DOE, as guardian ad litem of MARY
DOE, a minor,

Plaintiff,

v.

CITY OF ORTING, a municipality; CITY OF
ORTING POLICE DEPARTMENT, a division
of the City of Orting; BRIAN GARRETT
BURNISHIRE, and DOES 1 through 5,
inclusive,

Defendants.

Case No. C04-5302FDB

ORDER GRANTING DEFENDANTS'
MOTION TO AMEND THE
CAPTION

Defendants City of Orting and the City of Orting Police Department (the City) move to amend the caption pursuant to Fed. R. Civ. P. 17(a) to remove Jane Doe as guardian ad litem and to substitute for Mary Doe the real name of that Party. Defendant argues that because it is undisputed that Mary Doe turned eighteen years old on October 20, 2004, her mother Jane Doe is not a real party in interest under Fed. R. Civ. P. 17(a) and has no authority to bring this action on behalf of her daughter under Fed. R. Civ. P. 17(c). Plaintiff agrees with the request to remove from the caption "Jane Doe, as guardian ad litem."

The City argues that the real name of Mary Doe should be substituted in the caption because

1 every cause of action should be prosecuted in the name of the real party in interest, Fed. R. Civ. P.
2 10(a) and 17(a) and that plaintiffs “use of fictitious names runs afoul of the public common law right
3 of access to judicial proceedings.” *See Doe v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th
4 Cir. 2000). The City argues that Plaintiff has not satisfied her burden of demonstrating a need to
5 proceed anonymously.


6 Plaintiff argues that courts permit parties to proceed using a pseudonym under the following
7 circumstances: (1) when the identification creates a risk of physical or mental harm from retaliation;
8 (2) when anonymity is needed to preserve privacy in sensitive and “highly personal” matters, and (3)
9 when the anonymous party must admit an intent to participate in an illegal act. *Does v. Advanced*
10 *Textile Corporation*, 214 F3d 1058, 1068 (9th Cir. 2000). Plaintiff argues that her remaining
11 anonymous would not prejudice the City, the public’s need to know her identify is minimal, and since
12 her friends and community have discovered the facts supporting her lawsuit, Plaintiff has lost her
13 friends, she has been shamed, she stopped attending her school, discontinued involvement in the
14 Orting Police Department and its programs, and she is anxious and paranoid about what people are
15 thinking about her. Plaintiff further asks that the Court redact Plaintiff’s true name from the City’s
16 motion to amend.

17 The City argues that Plaintiff continued her relationship with Defendant Burnshire in spite of
18 a court order prohibiting such contact. (Buchanan Decl. Ex 1, 122:21– 124:1.) Plaintiff has not
19 offered any expert testimony in support of her mental health. While Plaintiff states that she is
20 embarrassed by her prior relationship with Burnshire, “[t]he risk that a plaintiff may suffer some
21 embarrassment is not enough” to rebut the “presumption of openness.” *M.M. v. Zavaras*, 139 F.3d
22 798, 803 (10th Cir. 1998). Plaintiff concedes that her friends, family, and community are already
23 aware of the relationship she had with Defendant Burnshire.

24 The Court agrees that the caption should be amended to reflect the true name of the real
25 party in interest for the reasons that the City has shown.

1 ACCORDINGLY, IT IS ORDERED: Defendants' Motion To Amend the Caption Pursuant
2 To Fed. R. Civ. P. 17(a) [Dkt. # 33] is GRANTED, and the caption will be amended to reflect "Jane
3 Doe's" dismissal as guardian ad litem and substitution of Kingsley Simpson in place of "Mary Doe."

4 DATED this 13th day of June, 2005.

5 
6 _____
7 FRANKLIN D. BURGESS
8 UNITED STATES DISTRICT JUDGE
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25